

April 27 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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FILED

APR 27 2009

Office of Disciplinary Counsel

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

BEFORE THE COMMISSION ON PRACTICE OF THE
SUPREME COURT OF THE STATE OF MONTANA

PR09-0224

IN THE MATTER OF ROY W. JOHNSON, JR.,

An Attorney at Law,

Respondent.

) Supreme Court Cause No.

) ODC File No. 08-185

) **COMPLAINT**

By request of a Review Panel of the Commission on Practice, the Office of Disciplinary Counsel for the State of Montana ("ODC"), hereby charges Roy W. Johnson, Jr. with professional misconduct as follows:

General Allegations

1. Roy W. Johnson, Jr., hereinafter referred to as Respondent, was admitted to the practice of law in the State of Montana in 1969, at which time he took the oath required for admission, wherein he agreed to abide by the Rules of Professional Conduct, the Disciplinary Rules adopted by the Supreme Court, and the highest standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

1 2. The Montana Supreme Court has approved and adopted the Montana Rules of
2 Professional Conduct ("MRPC"), governing the ethical conduct of attorneys licensed to practice
3 in the State of Montana, which Rules were in effect at all times mentioned in this Complaint.

4 **Count One**

5 3. ODC realleges and incorporates paragraphs 1 through 2 of the General
6 Allegations as if fully restated in this Count One.

7 4. Walter M. Larson, Jr. ("Larson") and Susan Casey ("Casey") are the parents of
8 two minor children, S.L., a boy, and M.L., a girl.

9 5. Casey is now deceased.

10 6. Rusty L. Limesand ("Limesand") was Casey's brother. On May 7, 2008,
11 Limesand and his wife, Valerie filed two petitions to be appointed co-guardians and co-
12 conservators for the children in Montana Seventh Judicial District Court, Dawson County—
13 Cause No. DG 08-005 for M.L. and Cause No. DG 08-006 for S.L.

14 7. Larson was given notice of said petitions. On June 3, 2008, Larson retained
15 Respondent to assist him in obtaining visitation and contact rights concerning his children.

16 8. Larson did not object to the Limesands' petitions and on June 5, 2008 the Court
17 appointed the Limesands co-guardians and co-conservators for the children.

18 9. Respondent took no measures to obtain visitation/contact rights for Larson until
19 he lodged proposed parenting plans with the Dawson County Clerk of Court on September 18,
20 2008. Respondent did not file an appropriate pleading to properly bring the matter before the
21 Court.
22

23 10. In violation of Rule 1.1, MRPC, Respondent failed to provide the Larson with
24 competent representation.
25

1 11. In violation of Rule 1.3, MRPC, Respondent failed to act with reasonable
2 diligence and promptness in representing the Larson.

3 **Count Two**

4 12. ODC realleges and incorporates paragraphs 1 through 2 of the General
5 Allegations as if fully restated in this Count Two.

6 13. In a letter to Respondent dated September 16, 2008, ODC requested that
7 Respondent provide ODC a response to the Larson's informal complaint within 21 days from the
8 date of the letter. The letter was not returned. Respondent did not respond.

9 14. ODC sent a second letter to Respondent on October 14, 2008 via certified mail,
10 return receipt requested and via regular mail. This letter requested that Respondent provide a
11 written response to the informal complaint within 10 days of the date of the letter. Respondent
12 personally signed the return receipt card on October 16, 2008, which ODC received on October
13 20, 2008. Again, no response was submitted.

14 15. Respondent's conduct, as described herein, constitutes a violation of 8.1(b),
15 MRPC.

16 16. Respondent's failure to promptly and fully respond to inquiries from Disciplinary
17 Counsel is, in accordance with Rule 8A(6), RLDE (2002), a ground for discipline.

18 WHEREFORE, the Office of Disciplinary Counsel prays:


19 1. That a Citation be issued to the Respondent, to which shall be attached a copy of
20 the complaint, requiring Respondent, within twenty (20) days after service thereof, to file a
21 written answer to the complaint;
22

23 2. That a formal hearing be had on the allegations of this complaint before an
24 Adjudicatory Panel of the Commission;
25

3. That the Adjudicatory Panel of the Commission make a report of its findings and recommendations after a formal hearing to the Montana Supreme Court, and, in the event the Adjudicatory Panel finds the facts warrant disciplinary action and recommends discipline, that the Commission also recommend the nature and extent of appropriate disciplinary action, and,

4. For such other and further relief is deemed necessary and proper.

DATED this 24th day of April, 2009.


Shaun R. Thompson
Disciplinary Counsel

1 Shaun R. Thompson
2 Disciplinary Counsel
3 P.O. Box 1099
4 Helena, Montana 59624-1009
5 (406) 442-1648

6 Office of Disciplinary Counsel

7 BEFORE THE COMMISSION ON PRACTICE OF THE
8 SUPREME COURT OF THE STATE OF MONTANA

9 * * * * *

10 **FR 09-0224**

11 IN THE MATTER OF ROY W. JOHNSON, JR.

) Supreme Court Cause No.

) ODC File No. 08-185

12 An Attorney at Law,

)

13 Respondent.

) **CITATION TO APPEAR IN ANSWER TO
COMPLAINT OF THE OFFICE OF
DISCIPLINARY COUNSEL**

)

)

14
15 TO: Roy W. Johnson, Jr., Respondent, Greetings:

16 YOU ARE HEREBY NOTIFIED that the Office of Disciplinary Counsel for the State of
17 Montana has filed with the Supreme Court of the State of Montana its Formal Complaint against
18 you pursuant to Rule 12 of the Rules for Lawyer Disciplinary Enforcement (2002), a copy of
19 which Complaint is attached hereto.

20 YOU ARE HEREBY COMMANDED to make and file with the Clerk of this Court your
21 written answer to said Complaint within twenty (20) days from and after service upon you of this
22 Citation and a copy of said Complaint as provided by Rule 18, RLDE (2002).

23 Any procedural motions, for example, a Motion for Extension of Time within which to
24 Answer the Complaint, filed by you or by your Counsel prior to the filing of the Findings,
25 Conclusions, and Recommendations of the Commission on Practice, shall be addressed to and

1 filed with Shauna Ryan, Commission on Practice, P.O. Box 203002, Helena, MT 59620-3002,
2 and served upon the Office of Disciplinary Counsel, P.O. Box 1099, Helena, MT 59624-1099,
3 as provided by Rule 18, RLDE (2002).

4 In the event of your failure to file an answer within the time prescribed, you will be held
5 and deemed in default as provided by Rule 12B(2), RLDE (2002).

6 WITNESS my hand and seal of this Court this _____ day of April, 2009.

7
8
9 (COURT SEAL)

ED SMITH,
Clerk of the Supreme Court
Of the State of Montana